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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 16-3109

PRESTON J. DRIGHT, APPELLANT,

v.

ROBERT A. McDONALD,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before GREENBERG, *Judge*.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

On January 15, 2015, the Board of Veterans' Appeals (Board) issued a decision denying the appellant, Preston J. Dright, benefits based on service connection for (1) a left lower extremity disability; (2) a right lower extremity disability; and (3) a lumbar spine disorder as secondary to numbness of the lower extremities. On March 7, 2016, the appellant filed a motion for reconsideration with the Board, 417 days after the date of the Board decision. That motion was denied on May 6, 2015. On September 4, 2016, the appellant filed a Notice of Appeal (NOA) at this Court, 121 days after the Board denied the motion for reconsideration.

On September 27, 2016, the Court ordered the appellant to show cause why his appeal should not be dismissed as untimely. The appellant has not filed a response.

Generally, an NOA must be received by the Court no later than 120 days after the date on which the Board mailed notice of its decision to the appellant. 38 U.S.C. § 7266(a). If an appellant has filed a motion to vacate or for Board reconsideration within 120 days of the Board's mailing its decision, then an NOA must be received by the Court "within 120 days after the Board Chairman has denied the reconsideration motion." *Rosler v. Derwinski*, 1 Vet.App. 241, 249 (1991).

The Court will dismiss the appeal as untimely, as the appellant neither moved for reconsideration within 120 days of the Board decision, nor filed an NOA within 120 days of the Board's denial of his motion for reconsideration. If the appellant does indeed have cause as to why this appeal should not be dismissed, he may request reconsideration of the Court's decision by

providing that information within 21 days of this order. *See* U.S. VET. APP. R. 35(d) (Motions for Reconsideration - Time for Motion).

For the foregoing reasons, the appellant's appeal of the January 15, 2015, Board decision is DISMISSED.

DATED: November 29, 2016

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William S. Greenberg", with a stylized flourish at the end.

WILLIAM S. GREENBERG
Judge

Copies to:

Preston J. Dright

VA General Counsel (027)